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Wiggin and Dana LLP
437 Madison Avenue
35th Floor
New York, New York
10022
www.wiggin.com

Mary A. Gambardella
203.498.4382
212.551.2888 fax
mgambardella@wiggin.com

MEMO ENDORSED

VIA ECF

January 10, 2020

Honorable Barbara Moses
United States Magistrate Judge
United States District Court for the
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 2510
New York, NY 10007-1312

The parties having reported that they have resolved their discovery dispute, the Clerk of Court is respectfully directed to terminate the motions at Dkt. Nos. 54 and 56. SO ORDERED.



Barbara Moses, U.S.M.J.
January 10, 2020

Re: **Giurca v. Montefiore Health System, Inc., et al.**
Case No.: 1:18-cv-11505 (DAB)

Dear Magistrate Judge Moses:

This Firm represents defendants Montefiore Health Systems, Inc. ("Montefiore"), Jeffrey Weiss, M.D., Claus von Schorn, M.D., and Gary Ishkanian, M.D. (collectively "defendants") in connection with the above-referenced case brought by Dan Giurca, M.D. ("plaintiff," collectively with defendants the "parties"). On behalf of all parties, we respectfully submit this Joint Status Report pursuant to the Court's December 9, 2019 Order [ECF No. 55].

Following further inquiry into the complexities of the issues involved with NY MENT HYG § 33.13, including an inquiry with the New York State Office of Mental Health, the parties report that as of January 9, 2020, they have agreed to a procedure to narrow the records being disclosed, as well as to ensure the relevant portions of all the requested and identifiable patient records will be redacted in accordance with 45 C.F.R. § 164.514(b)(2) to remove all protected health information. Additionally, the parties agree to the necessity for, and thus, respectfully request that this Court enter, an appropriate protective order regarding the confidentiality and permitted uses of the redacted records. The parties agree that the Court's Model Stipulated Protective Order and Non-Disclosure Agreement appropriately protects the redacted records in this case and attach a copy hereto as Exhibit A. The parties believe these safeguards will sufficiently shield the privacy of defendants' patients while permitting plaintiff the discovery he contends is necessary. With these safeguards in place, defendants assert sufficient protection of patient records pursuant to NY MENT HYG § 33.13 has been achieved, obviating the need for a response from the parties under Paragraph 4 of the December 9 Order.

By way of a specific response to Paragraph 3(a) of that Order, of the 39 patient records referenced in the Amended Complaint, the parties have been able to identify 27 patients with greater particularity. Based on the information provided by plaintiff, defendants have thus far been able to locate records for 19 of those patients. Defendants will continue to search for

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responsive records and will continue to work with plaintiff's counsel with an aim to protect patient privacy and move discovery along efficiently and expeditiously.

The undersigned again thank the Court for its efforts and guidance which proved critical to assisting the parties in resolving this discovery dispute.

Respectfully,

/s/ Mary A. Gambardella
Mary A. Gambardella [MG-6103]
Lawrence Peikes [LP-2478]
Joshua J. Wyatt [JW-3642]

/s/ Robert W. Sadowski
Robert W. Sadowski [2023794]

MAG:jjw